

AMPLIFIED TELEPHONE PURCHASE AGREEMENT

This Amplified Telephone Purchase Agreement, dated the 28 day of May, 2004, is made by and between the Illinois Telecommunications Access Corporation ("ITAC") an Illinois not-for-profit corporation (the "Purchaser") and Teltext, Inc., a Missouri corporation (the "Seller").

RECITALS

WHEREAS, Purchaser administers, on behalf of all Illinois local exchange carriers, the Illinois Telecommunications Relay Service and the distribution of equipment that allows persons with hearing or speech disabilities and qualified organizations that serve such persons ("Participants") access to the telecommunications network to send or receive messages pursuant to Section 13-703 of the Illinois Public Utilities Act (220 ILCS 5/13-703) and the Illinois Commerce Commission's regulations (83 Ill. Adm. Code Parts 755 and 756); and

WHEREAS, many persons in Illinois with hearing disabilities would benefit from access to an amplified phone in their residence;

WHEREAS, to offer amplified telephones to qualified Illinois telephone subscribers, Purchaser desires to purchase certain models of amplified telephones and distribute them to qualified Participants through its voucher program; and

WHEREAS, Purchaser distributed a Request for Proposal to all known and potential vendors of amplified telephones on or about March 29, 2004, and among those receiving and responding to such Request for Proposal was Seller; and

WHEREAS, Seller submitted a proposal to Purchaser on or about April 15, 2004 in response to Purchaser's Request for Proposals, a copy of which is attached hereto, and incorporated herein as Exhibit 1; and

WHEREAS the Board of Directors of Purchaser has given its approval to the selection of the proposal of Seller as the most desirable proposal for the purchase by Purchaser of amplified telephones;

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. Sale of Amplified Telephones.

- 1.1. Seller hereby agrees to provide Purchaser with 30 units each of the (a) William Sound Teletalker Tel 040, (b) Ameriphone (Clarity) Dialogue XL-50, (c) Ameriphone (Clarity) Dialogue XL-40, and (d) ClearSounds® (Hitec) 40XLC Amplified Freedom Phone ("Amplified Telephones") by the later of June 15, 2004 or seven (7) days after the Effective Date as defined in Paragraph 17.1 ("Initial Order"). Seller further agrees to provide additional units of Amplified Telephones to Purchaser against orders received from Purchaser or its Agent, the placing of such orders to be within Purchaser's sole and absolute discretion.
- 1.2. All equipment supplied under this Agreement shall be the latest and most current version or model available, new and in good working order at the time of delivery to Purchaser or Participants. For all equipment supplied under this Agreement, Seller shall provide Purchaser with the model name and number (if any), a description of the operating functions and specifications of the telephones, and a description of any updates or changes from the previous model or models.
- 1.3. Purchaser does not guarantee or commit to purchase any minimum quantity of any or all models of Amplified Telephones or to spend any or all of the money it has budgeted for Amplified Telephones during the term of this Agreement.

2. Shipment and Delivery of Amplified Telephones.

- 2.1. Seller agrees to ship the Initial Order to the ITAC office.
- 2.2. Unless otherwise instructed by ITAC, Seller shall drop ship each subsequently ordered Amplified Telephone directly to the Participant, at the address provided by ITAC.
- 2.3. Seller shall ship all orders within ten (10) calendar days after receipt of a written, electronic, or telephonic order from Purchaser or its agent.
- 2.4. Seller shall charge Purchaser \$7.00 for shipping and handling of each new Amplified Telephone drop shipped to a Participant. Seller shall charge Purchaser actual cost for shipping and handling of Bulk shipments sent directly to Purchaser.
- 2.5. Seller shall give Purchaser confirmation of shipment immediately upon shipment. Confirmation of shipment shall include the UPS (or other courier) tracking number or a copy of the common carrier "Bill of Lading"; the recipient of the shipment, the make, model, and serial number of the unit shipped, the date of the written, electronic, or telephonic order from Purchaser; and any other pertinent information that will assist Purchaser in tracking the shipment.

3. Purchase Price and Terms of Payment.

- 3.1. The purchase price, excluding shipping and handling costs, of each Amplified Telephone is shown on Exhibit 2 to this Agreement. Exhibit 2 is hereby incorporated by reference and made a part of this Agreement.
- 3.2. Seller shall mail invoices monthly directly to Purchaser. Purchaser shall make payment to Seller (net of any permitted set-offs under Section 10) for all Amplified Telephones received by Participants and by Purchaser (or its agent) on or before the later of: (a) thirty (30) days after the date such invoice is received by Purchaser, or (b) thirty (30) days after receipt of the Amplified Telephones.
- 3.3. Neither any payment made by Purchaser to Seller pursuant to this Section 3, nor the acceptance of any Amplified Telephones, shall constitute a waiver of any of Purchaser's rights, or modify or limit any of Purchaser's rights or Seller's obligations under Sections 6, 7, 9, 10 and 11 of this Agreement.

4. Amplified Telephone Identification.

- 4.1. Seller shall provide Purchaser monthly with a database of serial numbers corresponding to the name and address of the Participant for all Amplified Telephones drop shipped directly to Participants.
- 4.2. Seller shall provide Purchaser with a list of serial numbers for the Initial Order of new Amplified Telephones shipped directly to Purchaser.
- 4.3. All Amplified Telephones provided under this Agreement shall include a permanent sticker with Seller's toll free, voice and TTY number for customer support. Such stickers shall not obscure the serial number of the telephone.

5. User Manuals.

- 5.1. All Amplified Telephones delivered under this Agreement shall include the manufacturer's standard user manual or owner's book for the unit.

6. Manufacturers' Standard Warranties.

- 6.1. Seller agrees that all Amplified Telephones supplied under this Agreement will include the manufacturer's standard warranty, which will take effect on the date that the Amplified Telephone unit is drop-shipped to a Participant or to Purchaser. The warranty shall include all labor, materials, parts, return shipping and other expenses required to provide warranty service at no additional expenses to Purchaser or the Participant. The Participant shall be responsible only for initial one-way shipping to obtain warranty service. The Participant shall not be required to submit a warranty card or other documentation in order for the warranty to be honored when items are returned for repair or replacement. The warranty shall be comprehensive, and shall cover all parts of an Amplified

Telephone except consumables, such as batteries. The warranty shall cover all failures in materials and performance, except those caused by natural disasters and "acts of God", misuse, abuse or neglect, and unauthorized repair or tampering.

- 6.2. For purposes of determining the duration of the warranty, Seller agrees to maintain records of the date and serial number of each Amplified Telephone issued to a Participant. Such records shall be provided to Purchaser on a regular and timely basis as specified in Paragraph 2.5 above, and shall be used by Seller and Purchaser to ensure that Purchaser does not request warranty repairs on any Amplified Telephone beyond the warranty period.
- 6.3. Under the warranty, all broken and/or defective Amplified Telephones shall be returned to Seller's National Service Center for repair or replacement with new (not reconditioned) Amplified Telephone of the same make and model. Clear, concise and easily visible instructions for returns for warranty service shall be included with the original shipment of each Amplified Telephone.
- 6.4. Within fourteen (14) calendar days following the receipt of an Amplified Telephone for repair under the warranty, Seller shall complete the repairs and ship the repaired or new replacement Amplified Telephone to Participant.
- 6.5. The Participant shall pay for shipping of Amplified Telephones for warranty service to the Teltex National Repair Center in North Kansas City, Missouri. Seller shall bear the cost, as well as the risk of loss or damage, of return shipping of the repaired or replacement Amplified Telephone.
- 6.6. The provisions of this Section 6 shall apply equally to warranty repairs of Amplified Telephones purchased in bulk by Purchaser and shipped to Purchaser.

7. Additional Warranties.

- 7.1. In addition to the manufacturer's warranty, and notwithstanding any other provision in this Agreement, Seller warrants and agrees with respect to all Amplified Telephones purchased under this Agreement that:
 - 7.1.1. Immediately prior to delivery, Seller had good title to the Amplified Telephone, free of any lien or encumbrance, and no lien or encumbrance on the Amplified Telephone will be created by the purchase of the Amplified Telephone by Purchaser.
 - 7.1.2. All Amplified Telephones comply with all federal, state, and other laws and regulations relative thereto, including without limitation registration with the Federal Communications Commission.
 - 7.1.3. In supplying any labor or performing any services hereunder, Seller is, and undertakes such performance as, an independent contractor, with sole responsibility for all persons employed in connection therewith, including

without limitation exclusive liability for the payment of all federal, state, and local employment and disability insurance, social security and other taxes and contributions.

7.1.4. No Amplified Telephone, or component parts thereof, furnished under this Agreement infringes in its manufacture, use or sale, together or separately, upon any United States or foreign patent, trademark, trade name or copyright. In the event of any infringement claims relating to any such Amplified Telephone or component part or any of their purchase, manufacture, sale or use, Seller agrees to indemnify and hold Purchaser harmless against and from any and all loss, liability, cost, damage or expenses (including reasonable attorneys' fees) incident to any claim, action or proceeding arising out of such infringement claim.

7.2. The foregoing warranties and agreements are in addition to all other warranties, express or implied, and survive any delivery, inspection, acceptance, payment or lapse of the manufacturer's warranty. All warranties shall run to and be enforceable by Purchaser, its successors and assigns. Where the terms of this Agreement conflict with those of a manufacturer's warranty, the terms of this Agreement shall take precedence over the conflicting provision of the manufacturer's warranty.

8. F.O.B. Terms.

8.1. All Amplified Telephones shall be delivered FOB the Participant or the offices of Purchaser or such other location as may be designated by Purchaser upon notice to Seller for legitimate business purposes, and title to, and risk of loss of, the Amplified Telephones shall pass from Seller to Purchaser upon (and only upon) the delivery of telephones to Participants, Purchaser or its designee at such FOB point within Illinois.

9. Repair after Expiration of Standard Warranty.

9.1. For each Amplified Telephone purchased under this Agreement, if the manufacturer's standard warranty on the Amplified Telephone is less than four (4) years, Seller agrees to provide repairs and refurbishment of such Amplified Telephone after the expiration of the standard warranty until a date four years from the date that the Amplified Telephone was shipped to the Participant or the Purchaser. All such out-of-warranty repairs after the expiration of the standard warranty shall be performed by Seller at a flat rate of \$35.00 per repair, and each repair shall carry a one-year warranty on parts and labor. The provisions of Paragraphs 6.3, 6.4 and 6.5 above shall apply to repairs and refurbishment after the expiration of the standard warranty.

9.2. The Participant shall pay for shipping of Amplified Telephones for service after the expiration of the standard warranty to the Teltex National Repair Center in

North Kansas City, Missouri. Seller shall bear the cost, as well as the risk of loss or damage, of return shipping of the repaired Amplified Telephone.

9.3. All repairs after expiration of the standard warranty for Amplified Telephones shipped to Participants shall be the sole responsibility of the Participant and not the Purchaser, and Seller shall make arrangements for payment by the Participant.

9.4. The provisions of this Section 9 shall apply equally to repairs after expiration of the standard warranty on Amplified Telephones purchased in bulk by Purchaser and shipped to Purchaser.

10. Customer Service; Return Policy.

10.1. Seller shall have a customer service facility that is accessible by toll-free telephone (voice and text telephone) during standard working hours, Monday through Friday, to answer Participant questions and assist Participants in determining whether an Amplified Telephone needs to be returned for repair. Clear, concise, and easily visible instructions for using the customer service center shall be included with the shipment of each Amplified Telephone.

10.2. Seller shall allow each Participant to return his/her Amplified Telephone within forty-five (45) days from the date of shipment if the selected equipment does not meet the Participant's needs. Refunds or credit for returned equipment shall be made to Purchaser. Seller shall provide Purchaser with the user name, make, model, date of return and reason for return for each item returned. Participants who return an Amplified Telephone must make arrangements for replacement equipment through Purchaser, and Seller shall not replace or exchange equipment directly for Participants, other than as specified under Paragraph 6.4.

11. Remedies.

11.1. In the event that, within ten (10) business days of receipt of an Amplified Telephone by Purchaser or a Participant, it is found to be in whole or in part non-operational or does not conform to the requirements of this Agreement, Purchaser may, at Purchaser's sole option, (i) cause such Amplified Telephone to be returned to Seller, at the cost and expense of Seller, and deduct the amount paid for such telephone from future invoices, or (ii) exercise all remedies provided under the warranty. Seller shall pay all shipping costs for all non-operational or non-conforming Amplified Telephones. Purchaser's and Participants' sole remedies upon the discovery of non-operational or non-conforming goods from and after the 11th day after receipt of an Amplified Telephone shall be those specified in the warranty.

12. Confidentiality; Records; Reports.

12.1. Seller acknowledges that records and information regarding individual Participants of Amplified Telephones supplied pursuant to this Agreement are confidential. Seller shall not release such confidential information to any person

or use such information for any purpose other than shipment of equipment unless authorized in writing by Purchaser.

- 12.2. Seller shall provide Purchaser with a monthly report specifying the make and model of Amplified Telephones returned for repair or service, whether or not such repair or service was under warranty, the specific problem, and the age of the unit.

13. Termination; Term of Agreement.

- 13.1. Except as provided in Paragraphs 13.2 and 13.3 below, this Agreement shall terminate twelve months after the Effective Date of this Agreement, as defined in Section 17; provided, however, that Purchaser may, at its sole discretion, and subject to agreement between Purchaser and Seller on pricing, renew this Agreement for up to four (4) additional one-year terms. Purchaser shall give Seller at least thirty (30) days advanced written notice of its intent to exercise each annual renewal option.

- 13.2. The provisions of Sections 6, 7, 9, 10 and 11 of this Agreement shall terminate four (4) years from the date of shipment of the last Amplified Telephone purchased under this Agreement.

- 13.3. Purchaser reserves the right in its sole discretion to terminate this Agreement at any time during the term of the Agreement by providing written notice to Seller.

14. Non-Exclusivity.

- 14.1. This Agreement is not exclusive. Nothing in this Agreement shall preclude Purchaser from contracting with others for the equipment or services described in this Agreement during the term of this Agreement.

15. Default.

- 15.1. In the event of a failure by Purchaser to pay amounts that are not the subject of a bona fide dispute when such amounts are due as provided in Section 3, (i) Seller may cease delivery of additional Amplified Telephones until all such unpaid amounts are paid, and (ii) Purchaser shall pay a late payment charge on such amounts of 1% for each thirty (30) day period or part thereof that such amounts are due and unpaid (e.g., 1% charge on amounts due and unpaid over 30 days, 2% charge on amounts due and unpaid over 60 days, etc.).

16. Commission Approval; Jurisdiction.

- 16.1. The parties hereto acknowledge that Purchaser will submit this Agreement to the Illinois Commerce Commission for approval, and the obligations of the parties hereunder are subject to the approval of this Agreement by the Illinois Commerce Commission. Either party shall have the right to terminate this Agreement if Illinois Commerce Commission approval has not been received within five months of the date the petition for approval is filed. Seller acknowledges that

Purchaser is subject to the jurisdiction of the Illinois Commerce Commission as to its ability to conduct business.

17. Effective Date; Entire Agreement; No Waiver.

17.1. Effectiveness of this Agreement shall be conditioned upon the approval of the Illinois Commerce Commission. The effective date of this Agreement shall be the date upon which the order approving this Agreement is entered by the Illinois Commerce Commission (the "Effective Date"). No party hereto shall be bound by any terms additional to or different from those in this Agreement (and the attachments hereto) that may appear in any quotation, acknowledgement, invoice or any other communications from any other party hereto. The failure of any party to enforce any provision hereunder shall not be construed as a waiver of its right subsequently to enforce such provision. The terms of this Agreement constitute the entire agreement between the parties, and may not be modified or altered except by a writing signed by the parties hereto affected thereby.

18. Assignment; Insurance; Indemnification.

18.1. Neither party to this Agreement may assign all or any part of its rights and obligations hereunder without the written consent of the other party hereto.

18.2. Seller shall maintain such personal injury and property damage liability insurance as necessary to protect itself from claims arising out of the performance of this Agreement. Seller shall indemnify and hold harmless the Illinois Telecommunications Access Program Advisory Council, the Illinois Commerce Commission and its commissioners, officers, employees and agents as well as ITAC, its directors, officers, employees and agents from any and all claims, suits, actions, liabilities and costs of any kind, including attorneys' fees, for personal injury and/or damage to real and/or personal property arising from acts or omissions of the Seller, its agents, officers, employees or subcontractors.

19. Notices.

19.1. Except where indicated otherwise, all notices given hereunder shall be deemed to have been given as of the date such notice is received by the party to which notice is to be given, by hand delivery, registered mail, certified mail or facsimile, at the addresses set forth below, or at such other addresses as the parties may notify the other parties in writing.

If to Purchaser:

Illinois Telecommunications Access Corporation
3001 Montvale Drive, Suite D
Springfield, Illinois 62704
Attention: Ms. Trudy Snell
Executive Director
Facsimile: (217) 698-0942

If to Seller:

Teltex
404 E. 13th Ave.
North Kansas City, Mo 64116
Attention: Mr. Andrew Bond
President
Facsimile: (310) 450-9918

20. Counterparts.

20.1. This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

21. Governing Law.

21.1 The provisions of this Agreement shall be construed in accordance with, and this Agreement shall be governed by, the internal laws of the State of Illinois. Any legal action brought in connection with this Agreement shall be filed in state court in Springfield, Illinois, and such courts shall have exclusive jurisdiction to resolve disputes arising from or related to this Agreement that are not within the primary jurisdiction of the Commission.

WHEREFORE, the parties have executed this Agreement
the 28 th day of May, 2004.

Teltex, Inc.

By: 

ANDREW BOND

Title: PRESIDENT

Illinois Telecommunications Access Corporation

By: 

Title: EXECUTIVE DIRECTOR